

1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
tel. 202.434.4100
fax 202.434.4646

Writer's Direct Access
Timothy A. Doughty
(202) 434-4271
doughty@khlaw.com

June 26, 2019

Via ECFS

Marlene J. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

**Re: Commonwealth Edison Company's Objections to Complainant Crown
Castle Fiber LLC's First Set of Interrogatories (Proceeding Number 19-
170; Bureau ID Number EB-19-MD-005)**

Ms. Dortch:

Please find attached Commonwealth Edison Company's Objections to Complainant
Crown Castle Fiber LLC's First Set of Interrogatories in Proceeding Number 19-170; Bureau ID
Number EB-19-MD-005.

Sincerely,



Timothy A. Doughty
Attorney for Commonwealth Edison Company

Enclosures

cc: Rosemary McEnery, Enforcement Bureau
Adam Suppes, Enforcement Bureau

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

_____)	
)	
Crown Castle Fiber LLC)	
<i>Complainant,</i>)	
)	Proceeding Number 19-170
v.)	Bureau ID Number EB-19-MD-005
)	
Commonwealth Edison Company,)	
<i>Defendant</i>)	
_____)	

**COMMONWEALTH EDISON COMPANY’S OBJECTIONS
TO COMPLAINANT’S FIRST SET OF INTERROGATORIES**

Defendant Commonwealth Edison Company (“ComEd”), pursuant to Section 1.730 of the Commission’s Rules, 47 C.F.R. §1.730, submits the following objections to the First Set of Interrogatories of Complainant Crown Castle Fiber LLC (“Crown Castle”) to ComEd related to its Rate Complaint captioned above (the “Complaint”).

GENERAL OBJECTIONS

ComEd objects generally to the Interrogatories as set forth below (the “General Objections”). ComEd will also assert specific objections to each Interrogatory as appropriate. To the extent that ComEd responds to Interrogatories to which it objects, such objections are not waived and are expressly reserved.

ComEd objects to these Interrogatories because the State of Illinois has certified that it regulates pole attachments and therefore the FCC has no jurisdiction to resolve the above-

captioned Complaint. It would be unduly burdensome to require ComEd to respond to these objections until this jurisdiction issue has been resolved.

ComEd objects to these Interrogatories to the extent that they seek discovery of any matter that is not relevant to the material facts in dispute in the pending proceeding. *See* 47 C.F.R. § 1.730.

ComEd objects to the Interrogatories to the extent they seek information that is available from a source other than ComEd, including information that is publicly available or already in Crown Castle's possession, and therefore would impose no greater burden for Crown Castle to obtain than for ComEd to provide.

ComEd objects to these interrogatories to the extent that they seek information protected by the attorney-client privilege, attorney work-product, or any other applicable privilege.

ComEd objects to the definitions of "ComEd," "You," "Your," and "Yourself," as being overly broad and unduly burdensome (Definition Number 1).

ComEd objects to the definition of "communication" as being overly broad and unduly burdensome (Definition Number 7).

ComEd objects to the definitions of "describe," "discuss," and "analyze" as being overly broad and unduly burdensome (Definition Number 8).

ComEd objects to the definition of "information" as being overly broad and unduly burdensome (Definition Number 10).

ComEd objects to the definitions of "identify," "identity," "identification," "state," "describe," and "explain" as being overly broad and unduly burdensome (Definition Number 11).

ComEd objects to the definitions of “identify,” “describe,” “state the factual basis for,” and “state the legal basis for” as being overly broad and unduly burdensome (Definition Number 12).

ComEd objects to the definition of “document” as being overly broad and unduly burdensome (Definition Number 13).

ComEd objects to the definitions of “relating to,” “relate(s),” “related to,” and “concerning” as being overly broad and unduly burdensome (Definition Number 14).

ComEd objects to Instruction Number 1 and Number 2 as being overly broad and unduly burdensome. In addition, ComEd objects to Crown Castle’s request for the production of an index identifying any documents withheld under a claim of privilege as being overly broad and unduly burdensome.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify the amount of the total excess accumulated deferred income tax (“excess ADIT”) amounts created by the federal Tax Cuts and Jobs Act of 2018 (TCJA), including any amounts recorded in FERC Accounts 190, 281, 282, and 283, that have been or will be transferred or recorded in special regulatory liability accounts (including but not limited to FERC Account 254) for 2017 and 2018. Please also identify each of the specific accounts to which the excess ADIT amounts have been or will be transferred or recorded in, and the related debited or credited amounts for each such account.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 1 on the basis that it is irrelevant to the FCC’s pole attachment calculations.

INTERROGATORY NO. 2:

Identify Your amortization periods for the return of excess ADIT to ratepayers for protected and unprotected categories.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 2 on the basis that it is irrelevant to the FCC’s pole attachment calculations.

INTERROGATORY NO. 3:

Identify any projections calculated by ComEd of the impact of the company’s TCJA related adjustments to ADIT on future pole attachment rents.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 3 on the basis that it is irrelevant to the FCC’s pole attachment calculations.

INTERROGATORY NO. 4:

For each year from 2012 to 2018, identify the number of distribution poles that

were solely owned by ComEd in Illinois.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 4 on the basis that it requests information for periods of time that are not subject to FCC refunds.

INTERROGATORY NO. 5:

For each year from 2012 to 2018, identify the number of distribution poles that were jointly owned by ComEd with another entity, including specifically AT&T.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 5 on the basis that it requests information for periods of time that are not subject to FCC refunds.

INTERROGATORY NO. 6:

For each year from 2012 to 2018, identify, as a percentage, ComEd's ownership interest in distribution poles that ComEd jointly owned with any other entity, including specifically AT&T.

OBJECTION: ComEd relies on its general objections listed above.

INTERROGATORY NO. 7:

For each year from 2012 to 2018, identify the number of poles included by ComEd in FERC Account 364 broken down by pole height. If ComEd includes this information in its continuing property records (CPR), please provide the information in the same format in which it is included in ComEd's CPR.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 7 on the basis that it requests information for periods of time that are not subject to FCC refunds and on the basis that it requests information that is irrelevant to the calculation of pole attachment rates.

INTERROGATORY NO. 8:

For each year from 2012 to 2018, provide the aggregated total of ComEd's capital costs and associated depreciation reserve for appurtenances included in FERC Account 364.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 8 on the basis that it requests information for periods of time that are not subject to FCC refunds and to the extent that it would require ComEd to produce a document that ComEd does not already possess.

INTERROGATORY NO. 9:

Explain whether ComEd now invoices or at any point since 2013 invoiced Crown Castle, including Sunesys, Lighttower, and Crown Castle NG Central, for pole attachments in advance or in arrears, and for what billing period (i.e., calendar year).

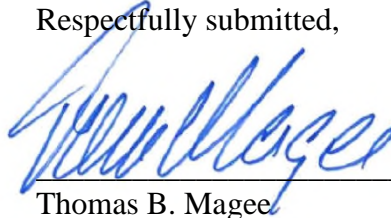
OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 9 on the basis that it requests information for periods of time that are not subject to FCC refunds.

INTERROGATORY NO. 10:

If You contend that Crown Castle, including Sunesys, Lighttower, and Crown Castle NG Central, has not paid You in full for any annual pole attachment rental, identify the invoice or invoices that you contend has not paid in full.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 10 on the basis that it requests information for periods of time that are not subject to FCC refunds.

Respectfully submitted,



Thomas B. Magee
Timothy A. Doughty
Keller and Heckman LLP
1001 G Street NW
Suite 500 West
Washington, DC 20001
(202) 434-4100 (phone)
(202) 434-4646 (fax)
magee@khlaw.com
doughty@khlaw.com

Attorneys for Commonwealth Edison Company

June 26, 2019

CERTIFICATE OF SERVICE

I, Timothy A. Doughty, hereby certify that on this 26th day of June 2019, a true and authorized copy of Commonwealth Edison Company's Objections to Complainant Crown Castle Fiber LLC's First Set of Interrogatories was served on the parties listed below via electronic mail and was filed with the Commission via ECFS.

Marlene J. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554
ecfs@fcc.gov
(By ECFS Only)

Rosemary McEnery
Federal Communications Commission
Enforcement Bureau
445 12th Street SW
Washington, DC 20554
Rosemary.McEnery@fcc.gov

Adam Suppes
Federal Communications Commission
Enforcement Bureau
445 12th Street SW
Washington, DC 20554
Adam.Suppes@fcc.gov

T. Scott Thompson
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue NW, Suite 800
Washington, DC 20006
scottthompson@dwt.com

Ryan Appel
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue NW, Suite 800
Washington, DC 20006
ryanappel@dwt.com

/s/

Timothy A. Doughty